

Atty. Docket No. 122.0002
Appl. No. 09/839,585
Amendment dated February 2, 2005
Reply to Office Action dated November 2, 2004

Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 11 and 12. These sheets, which include Figures 11 and 12 only, replace the original sheets of drawings including the sole Figures 11 and 12. In the new Figures 11 and 12, text that was previously unclear is now clear.

Attachments: Replacement Sheets

Atty. Docket No. 122.0002
Appl. No. 09/839,585
Amendment dated February 2, 2005
Reply to Office Action dated November 2, 2004

REMARKS

This Amendment is in response to the Office Action dated November 2, 2004. Claims 1-19 are pending in the application. No claims are cancelled or added. Accordingly, claims 1-19 are pending.

1. Claim Objections

Claims 14-16 have been objected to under 37 C.F.R. §1.75(c), as being of improper dependent form for allegedly failing to limit the subject matter of a previous claim. See Office Action, at Page 2. Applicants have amended claims 14-16 to accurately refer to the claims for which each depends, in accordance with the Examiner's suggestion. In particular, Applicants have amended the preamble of claims 14-16 to include the phrase, "The article of manufacture" to allow them to properly depend from the base claim 11. Accordingly, it is submitted that the objection to claims 14-16 is overcome.

2. Objection to Drawings

Figures 11 and 12 have been objected to due to some of the words of the drawings being unclear. See Office Action, at Page 2. As suggested by the Examiner, Applicants submit herewith replacement drawing sheets for figures 11 and 12, including clear, readable text in compliance with 37 C.F.R. §1.121(d).

3. 35 U.S.C. §101 Rejection

Claims 14-16 and 18-19 have been rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The Office Action asserts that claims 14-16, 18 and 19 are directed to a "computer data signal" per se and, as such, are non-statutory subject matter. This rejection is respectfully traversed.

Atty. Docket No. 122.0002
Appl. No. 09/839,585
Amendment dated February 2, 2005
Reply to Office Action dated November 2, 2004

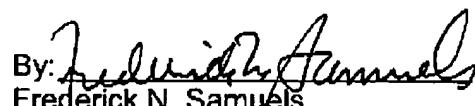
With respect to claims 14 and 16, the typographical error present in those claims is corrected so that each of those claims recite an article of manufacture. Accordingly, claims 14 and 16 are directed to statutory subject matter.

Turning to claims 18 and 19, they too are directed to statutory subject matter. The form of the preamble of claims 18 and 19 was expressly authorized by the United States Patent & Trademark Office in the Examiner Training Materials for the Guidelines for Computer-Related Inventions (1996) and has been included in literally thousands of issued U.S. Patents.

Notwithstanding the foregoing, the assertion in the Office Action that the instant invention does not claim computer programs as computer listings *per se* is simply incorrect. Claims 18 and 19 are both directed to "computer data signal embodied in a carrier wave". It is the carrier wave that constitutes the computer readable medium so there is no claim to the computer listings *per se*. Accordingly, claims 18 and 19 define statutory subject matter.

In view of the foregoing, it is asserted that the application is in condition for allowance. Reconsideration of the rejection and a favorable action on the merits are respectfully requested.

Respectfully submitted,
CAHN & SAMUELS, L.L.P.

By: 
Frederick N. Samuels
Reg. No. 34,715
2000 P St., NW, Ste. 200
Washington, D.C. 20036
Telephone: (202) 331-8777
Fax: (202) 331-3838

February 2, 2005